IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 13TH NOVEMBER 2007 / 22ND KARTHIKA 1929

Bail Appl..No. 6657 of 2007()

CRIME NO.398/07 OF KADAKKAL POLICE STATION

PETITIONERS : ACCUSED 1 AND 2:
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1. A.VISHNU RAJ, INDIRA NIVAS,
BLOCK NO.73, CHALLIMUKKU, PALODE.

2. JOHN, A.J.BHAVAN, CHALLIMUKKU, PALODE.

BY ADV. SRI.A.RAJASIMHAN

RESPONDENTS: COMPLAINANT:

SUB INSPECTOR OF POLICE,
KOTTARAKARA POLICE STATION REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 13/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.6657 of 2007

Dated this the 13th day of November, 2007

ORDER

Application for anticipatory bail. Petitioners are accused 1 and 2. Altogether there are 2 accused persons. They face allegations for offences punishable, inter alia, under Section 308 r/w 34 I.P.C. There are 2 injured persons. They suffered simple injuries. The alleged incident took place on 24.09.07. Prior animosity is the alleged motive. Weapons like knives are used for infliction of the injuries. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. They are actually victims of aggression and not aggressors. The defacto complainant is very influential politically and he is making use of his political clout to raise totally false and vexatious allegations against the petitioners. The petitioners have suffered injuries. They were admitted in the hospital. As no proper action was taken relating to their grievance, a complaint was filed before the Superintendent of Police, Kollam, a copy of which is produced as Annexure-A2. Accused 1 has suffered injury and his medical certificate was produced as Annexure-A1. No action has been

taken even though the Superintendent of Police, Kollam has forwarded the complaint to the local police station. This, it is alleged, is on account of the political influence of the defacto complainant. The learned counsel for the petitioners submits that the nature of injuries suffered does also reveal that the inclusion of allegations under Section 308 I.P.C is not fair and just. That allegation has been included with the transparent intention of vexing and harassing the petitioners and to ensure that they are unable to get regular bail from the learned Magistrate.

3. I have considered all the relevant inputs. The F.I statement has been read over to me. I have gone through Annexures A1 and A2 as also wound certificates of the 2 injured persons.

4. At this early stage of investigation, I shall carefully avoid any detailed discussion about the acceptability of the allegations or the credibility of the data collected. Suffice it to say that having considered the totality of inputs, I am persuaded to agree that this is a fit case where direction under Section 438 Cr.P.C can and ought to be invoked in favour of the petitioners.

5. In the result, the Bail Application is, allowed. The following directions are issued under Section 438 Cr.P.C.

i) The petitioners shall appear before the learned Magistrate at 11 a.m on 20.11.2007. They shall be enlarged on regular bail on

their executing bonds for Rs.25,000/- (Rupees Twenty Five thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate;

ii) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m and 3 p.m on 21.11.2007 and 22.11.07 and thereafter between 10 a.m and 12 noon on all Mondays and Fridays for a period of two months. Subsequently the petitioners shall make themselves available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so;

iii) If the petitioners do not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioners and deal with them in accordance with law as if those directions were not issued at all;

iv) If the petitioners were arrested prior to their surrender on 20.11.07 as directed in clause (1) above, they shall be released from custody on their executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) each without any sureties undertaking to appear before the learned Magistrate on 20.11.07.

(R.BASANT, JUDGE)

rtr/-